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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/598,814	06/21/2000	Brian A. LaMacchia	MS#154745.1/40062.65US03	5403
22801	7590	08/16/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			KIM, JUNG W	
		ART UNIT		PAPER NUMBER
		2132		

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/598,814	LAMACCHIA ET AL.
	Examiner Jung W. Kim	Art Unit 2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 June 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5 and 8-21 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 and 8-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____



**DETAILED ACTION**

1. This action is in response to the RCE filed on June 29, 2005.
2. Claims 1-5 and 8-21 are pending.
3. Claims 1-5, 10-16, and 18-20 are amended.
4. Claims 6 and 7 are canceled.
5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Continued Examination Under 37 CFR 1.114***

6. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 29, 2005 has been entered.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1-5 and 8-21 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Objections***

8. Claim 14 is objected to because of the following informalities: on line 4 of claim 14, replace "basedon" with --based on--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
10. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
11. Claim 18 recites the limitations "the first value" (line 2) and "the threshold" (line 8). There is insufficient antecedent basis for these limitations in the claim.

***Claim Rejections - 35 USC § 101***

12. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-5 and 8-21 are rejected under 35 U.S.C. 101. With regard to claims 1-10, none of the method steps require the use of hardware to accomplish the step, and hence claims 1-10 are rejected as being non-tangible. With regard to claims 11, 12 and 14-21, these claims are not limited to tangible embodiments (Specification, pg. 5, 2<sup>nd</sup>

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paragraph; pg. 37, lines 14-15), instead being defined as including both tangible embodiments (e.g., hardware) and intangible embodiments (e.g., carrier wave and software). With regard to claim 13, the subject matter of this claim is drawn to signals per se, not embodied on a computer-readable medium nor on an electromagnetic wave. See MPEP 2106 IV B. 1(a) and (c); *In re Warmerdam*, 31 USPQ2d 1754, 1760 (Fed. Cir. 1994); and *O'Reilly v. Morse*, 56 U.S. 62, 112-114 (1853).

### ***Claim Rejections - 35 USC § 102***

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

14. Claims 1-5, 8-17 and 19-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Drews USPN 6,463,535 (hereinafter Drews).

15. As per claim 1, Drews discloses a method of associating a permission set with an action based on evidence characterized by different levels of trust, the method comprising:

- a. identifying a first condition for association with the permission set, wherein the first condition references a first element of evidence, wherein the first element of evidence is implicitly trusted (fig. 2, reference no. 280; col. 4:60-65);
- b. identifying a second condition for association with the permission set, wherein the second condition references a second element of evidence, wherein the second element of evidence is initially untrusted (col. 5:5-18, certificate[N],  $1 \leq N < K$ );
- c. determining whether the first condition is satisfied by the first element of evidence; determining whether the second element of evidence should be trusted based on the first condition; determining whether the second condition is satisfied by the second element of evidence (col. 5:5-18); and
- d. associating the permission set with the code assembly, if both the first condition and the second condition are satisfied (fig. 5B, especially reference no. 580).

16. The aforementioned cover the limitations of claim 1.

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17. As per claims 2-5, the rejection of claim 1 under 35 U.S.C. 102(e) are incorporated herein. (supra) In addition, the operation of receiving at least a first and second condition comprises:

- a. receiving the first condition and the first element, and the second condition and the second element respectively, within a membership criterion; and
- b. receiving the first element and second element of evidence based on references in the membership criterion (col. 2:57-3:7; 4:45-5:4).

The aforementioned cover the limitations of claims 2-5.

18. As per claim 8, the rejection of claim 1 under 35 U.S.C. 102(e) is incorporated herein. (supra) In addition, the method further comprises

- a. generating a collection of code groups, each code group being associated with a membership criterion and a permission set, wherein the first condition and the second condition are received in the membership criterion associated with one of the code groups (col. 4:1-4); and
- b. determining whether the code assembly is a member of the code group, based on the membership criterion (4:4-14).

19. As per claim 9, the rejection of claim 8 under 35 U.S.C. 102(e) is incorporated herein. (supra) In addition, the associating operation associates the permission set of the code group with the code assembly, if the code assembly is determined to be a member of the code group (col. 4:1-14).

20. As per claim 10, the rejection of claim 1 under 35 U.S.C. 102(e) is incorporated herein. (supra) In addition, the method further comprising:

- e. Receiving at least a third condition referencing a third element of evidence, wherein the third element is initially untrusted;
- f. Determining whether the third element of evidence should be trusted based on the second condition; and
- g. Determining whether the third condition is satisfied by the third element of the evidence, wherein the associating operation comprises associating the permission set with the code assembly, if the first condition, the second condition, and the third condition are satisfied (col. 4:60-5:19; the certificate chain comprises of k certificates, the certificate[k – 2] corresponds to the third element).

21. As per claims 11-16, the rejections of claims 1-5 and 8-10 under 35 U.S.C. 102(e) are incorporated herein. (supra) In addition, the first element of evidence is independent of other evidence and conditions (the subject certificate is at the top of the certificate chain).

22. As per claim 17, Drews discloses a computer program product encoding a computer program for executing on a computer system a computer process for associating a permission set with a code assembly based on evidence characterized by different levels of trust, the computer process comprising:

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- a. receiving one or more first conditions, each first condition being associated with one or more first elements of evidence, wherein each first condition is associated with the permission set; determining whether each first condition is satisfied by an associated first element of evidence generating an indication for each first condition that is satisfied (col. 4:25-30; 5:5-18, certificate[N] where  $1 < N \leq k$ );
- b. receiving a second condition associated with the permission set and determining whether the second condition is satisfied based on the indications, wherein a level of trust associated with the indications depends upon a first condition of the one or more first conditions (5:5-18, certificate[1]); and
- c. associating the permission set with the code assembly, if both the first condition and the second condition are satisfied (6:3-18).

The aforementioned cover the limitations of claim 17.

23. As per claim 19, the rejection of claim 17 under 35 U.S.C. 102(e) is incorporated herein. (supra) In addition, at least one first element of evidence includes initially untrusted evidence (only certificate[k] is implicitly trusted).

24. As per claim 20, the rejection of claim 17 under 35 U.S.C. 102(e) is incorporated herein. (supra) In addition, at least one indication includes initially untrusted evidence (only certificate[k] is implicitly trusted).

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25. As per claim 21, Blaze covers a computer program as outlined above in the claim 17 rejection under 35 U.S.C. 103(a). In addition, inherent in a computer process that generates an indication for satisfiability of a first condition, is an indication for each first condition that is not satisfied. The aforementioned cover the limitations of claim 21.

***Claim Rejections - 35 USC § 103***

26. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Drews, and further in view of Al-Salqan USPN 6,687,823 (hereinafter Al-Salqan).

27. As per claim 18, the rejection of claim 17 is incorporated herein. (supra) Drews further discloses evaluating each signature on an untrusted certificate along the certificate chain to determine satisfiability of the conditions. However, Drews does not disclose associating values to the conditions, summing the values, then evaluating the sum against a threshold to determine satisfiability. Al-Salqan discloses collecting several authentication tests, wherein each test is assigned a weight, summing the collected weights of the tests passed by the user, and allowing the user access if the sum is greater than a certain threshold (fig. 2b; col. 2:7-24). Hence, it would be obvious to one of ordinary skill in the art to associate values to the conditions, summing the values, then evaluating the sum against a threshold to determine satisfiability since it is desirable to provide a priority or strength to each test for a more flexible means of determining satisfiability of a condition. Al-Salqan, 1:50-63. The aforementioned cover the limitations of claim 18.

***Communications Inquiry***

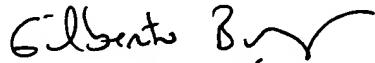
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jung W. Kim whose telephone number is 571-272-3804. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jung W Kim  
Examiner  
Art Unit 2132

  
August 12, 2005

  
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